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TAGS: [EFIN](#) [ENRG](#) [EPET](#) [PGOV](#) [PINR](#) [PREL](#) [UP](#)
SUBJECT: UKRAINE: MORE ANSWERS TO GAS DEAL UNKNOWNNS

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Classified By: Ambassador for reasons 1.4 b) and d)

11. (C) Summary. Ukrainian daily Ukrainska Pravda posted on January 22 what it claimed to be a copy of the gas supply contract signed by Ukraine and Russia on January 19. Because the gas supply contract was supposed to remain confidential neither our Ukrainian nor Russian governmental contacts could speak to the document's authenticity, although it appears that information in the document does, for the most part, mesh with press statements by Ukrainian officials on the terms of the deal. Ukrainian energy experts believe there might be as many as five gas-related contracts signed by the two countries. Both contract supporters and naysayers in Kyiv continue to speculate about the length of the contract, the gas volumes, the role Gazprom subsidiary Gazpromsbyt will play in Ukraine's domestic market, and what will happen to RosUkrEnerg (RUE) and its purported gas volumes in Ukrainian storage facilities. In addition, questions remain regarding the separate gas transit contract, and no version of a gas transit contract has been released in the press. The National Security and Defense Council (NSDC) announced that the January 23 special session of the NSDC called by President Viktor Yushchenko to discuss the gas contract had been postponed, as the NSDC was collecting more information concerning the contract approved by Prime Minister Yuliya Tymoshenko. End summary.

Gas Supply Contract Version Appears in the Press

12. (SBU) On January 22 the Internet newspaper Ukrainska Pravda published what it claimed was a copy of the bilateral Naftohaz/Gazprom gas supply contract. The text contained no significant surprises, and for the most part reflected what officials on both sides have said in recent days. To date, neither side denounced the contract or claimed that it was a forgery. It contains exact formulas for the prices Ukraine will pay for Russian gas in 2009, and states that Ukraine will pay \$360 per tcm in the first quarter. The price in subsequent quarters will be determined according to a formula linked to oil prices. If one makes reasonable assumptions about the development of oil prices, then it does now appear that Ukraine will in fact pay, on average, about \$225-\$230 per tcm for Russian gas in 2009, as PM Tymoshenko and others in her camp have claimed in recent days. The Ukrainska Pravda text also states that the contract is valid for eleven years, and not ten years as various officials have been claiming.

13. (SBU) The Presidential Secretariat and the opposition used the publication to criticize Tymoshenko. Deputy Presidential Secretariat Head Oleksandr Shlapak asked Naftohaz to provide it with the original contract as the Ukrainska Pravda version outlined "a very bad deal" for Ukraine. Former Minister of Fuel and Energy and current Party of Regions Rada Deputy Yuriy Boyko waived a copy of the agreement during a press conference, claiming that the contract clearly showed Ukraine is to pay \$450 per thousand cubic meters (tcm) of gas for 2009-- a price Boyko claimed is the highest in Europe. (Comment: The published contract does contain reference to a price of \$450 per tcm, but this figure is used as a base price from which the actual price for Ukraine is calculated. Nowhere does the contract state that Ukraine will pay this price.)

No Reference to Transit Price

14. (SBU) The contract published by Ukrainska Pravda makes no mention of the transit price, which was likely fixed in a separate document. Nonetheless, Boyko also criticized Tymoshenko's failure to raise the gas transit fee for Russia in 2009. At the same time, Ukrainian Minister of Fuel and Energy Yuriy Prodan stated on January 21 that the transit fee for Gazprom in 2010 would increase from \$1.70/tcm/ 100 km to between \$2.70-\$3.20/tcm/100 km. Gazprom CEO Alexei Miller has also stated in the past week that Ukraine would receive \$2.50/tcm/100 km for transit in 2010.

15. (C) Ukrainian Energy expert Mykola Honchar told EconOff that there might be up to five different gas-related

contracts signed between Ukraine and Russia. He believed that there are contracts on gas supply, transit fees and conditions, underground gas storage fees and conditions, and possibly two technical agreements, one of which concerns the price and volumes of technical gas. Honchar feared that the existence of so many contracts would provide plenty of loopholes for either party (especially Gazprom and the Kremlin) to exploit. He added that the January 19 agreement might have gotten gas supplies temporarily resumed, but the existence of several gas-related contracts creates a nontransparent environment that, in turn, could generate stalemates and gas cutoffs in the near future.

More on 2009 Gas Volumes

16. (SBU) Naftohaz Deputy Head Ihor Didenko told the press that the gas supply contract stipulates that the two sides will negotiate gas volumes on an annual basis. In 2009, Ukraine will purchase 40 billion cubic meters (bcm). It will buy 5 bcm in the first quarter, 10.5 bcm in the second, 12 bcm in the third, and 12.5 bcm in the fourth, he said. The contract published in Ukrainska Pravda also contains these exact amounts. According to the contract appearing on the Ukrainska Pravda site, the volumes are "take or pay," meaning that Ukraine must pay even if it were not to take delivery of these volumes. In 2008, Ukraine reportedly purchased 54.6 bcm, 14.6 more bcm than planned for 2009. Ukrainian officials have stated that Ukraine will use gas in its storage to meet consumption needs during the first quarter, noting that both industrial and domestic consumption is in decline because of the economic crisis.

Gazpromsbyt Volumes in 2009

17. (SBU) Ukrainian and Russian officials have made contradictory statements about the volumes that Gazprom subsidiary Gazpromsbyt will be able to sell to industrial users in Ukraine. The contract published by Ukrainska Pravda specifies that Naftohaz is obliged to sign an eleven year contract giving Gazpromsbyt the right to sell gas to Ukrainian industrial consumers in an annual amount equal to 25 percent of the amount that Ukraine imports. On January

22, however, Tymoshenko claimed that Gazpromsbyt would sell nothing in Ukraine. The contract, she claimed, specified that Gazpromsbyt could sell "up to 25 percent," but could also sell less, or even nothing. On the other hand, Gazprom CEO Alexei Miller stated in the press that Gazpromsbyt will receive 25 percent of the Ukrainian industrial gas market without stipulations. (Note: The copy of the contract published by Ukrainska Pravda does not contain the words "up to 25 percent.") In 2008, Naftohaz was obliged by contract to sell Gazpromsbyt 7.5 bcm at an undisclosed price. Gazpromsbyt, in turn, had the right to sell the gas to the Ukrainian industrial sector at an average price of \$300 per tcm. Gazpromsbyt reported that it only sold 4 bcm to the Ukrainian industrial sector in 2008 due to an unexpected low demand (reftel).

RosUkrEnergo's Gas in Storage

18. (SBU) The Ukrainian press has reported that Naftohaz agreed to assume a \$1.7 billion debt owed by RUE to Gazprom. In return, Naftohaz will receive 11 bcm of gas in Ukrainian storage that belongs to RUE. This means that Naftohaz is paying Gazprom roughly \$154 per tcm for the gas. Earlier, the two sides announced that Naftohaz would purchase 11 bcm of technical gas for \$154 per tcm from Gazprom. It now appears that the two sides agreed to remove RUE from the bilateral gas arrangement by having Naftohaz assume both RUE's major assets and liabilities. It also appears that RUE's approval for this arrangement was not obtained. Although Gazprom owns 50 percent of RUE, attorneys for RUE are preparing a claim against Gazprom in the London Court of Appeals to contest the deal. RUE officials also said they still expect Naftohaz to pay \$650 in penalties for late payments in 2008.

19. (C) Comment. As the ink on the January 19 gas supply contract continues to dry, more and more details have been revealed. The possible copy of the gas supply contract on Ukrainska Pravda's website has yet to be debunked by Naftohaz or Gazprom officials. Naftohaz and Tymoshenko continue to claim victories and a low gas price for Ukraine, while the President and Tymoshenko's opponents continue to attack the \$450/tcm base price as proof that Ukraine was out-negotiated. As time wears on, it appears that RUE might be an actual intermediary of the past, which would be an important Ukrainian step toward more transparency. No Ukrainian energy experts we have spoken with have counted RUE out yet, and rumors that some sort of intermediary will appear somewhere in the gas arrangement between Ukraine and Russia continue to abound in Kyiv. End comment.

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